

think everyone understands that. The Senator from Ohio has my assurance that I will continue to work with him on this issue.

Mr. DEWINE. I again commend the Senator from Utah and the other WIPO conferees and their staff, especially Senator LEAHY, for their tireless efforts to reach consensus on so many complex issues. I would simply like to ask my friend from Utah to work with those of us on the Judiciary Committee to introduce and seek passage of legislation early next year that protects our databases.

Mr. HATCH. Mr. President, let me assure my friend from Ohio that I have spoken to our colleagues on the House side, Congressmen HYDE and COBLE, and we have agreed to work together to introduce and seek passage of database protection legislation early next year. I will continue to work with the Senator from Ohio and our Senate and House colleagues and address this issue early next year.

Mr. DEWINE. I thank the Senator from Utah for his comments.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia has the floor.

Mr. HATCH. Will the Senator yield?

Mr. WARNER. Without losing my right to the floor.

Mr. HATCH. As I understand, the conference report has been agreed to. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. I thank my friend, the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HATCH. Will my colleague yield for 1 other minute? I promised I would yield to the distinguished Senator from Arizona.

Mr. WARNER. I will be happy to yield to the distinguished Senator from Arizona, provided I do not lose my right of recognition.

The PRESIDING OFFICER. The Senator from Arizona.

#### MEDICARE BENEFICIARY FREEDOM TO CONTRACT ACT

Mr. KYL. I thank the Senator from Utah.

Mr. President, I rise with several of my fellow Senators in support of S. 1194, the Medicare Beneficiary Freedom to Contract Act. S. 1194 currently has 48 Senate and 192 House cosponsors.

We believe that Medicare beneficiaries should have the same right to obtain health care from the physician or provider of their choice as do Members of Congress and virtually all other Americans.

It is dangerous to have the government control health care decisions in a free society.

What is the problem addressed by this legislation?

The problem is simply one of health care choice for seniors—a problem which has been brought to our attention by countless constituents all over America.

As I have mentioned on the Senate floor several times, this problem was first brought to my attention in a letter I received from Mr. and Mrs. C.B. Howard of Prescott.

Mary Ann Howard is a diabetic. The medicine she was taking was not working, and she wanted to change doctors to one who specialized in treating diabetics.

Her doctor told her that this was not possible. Amazed, Mary Ann asked why, and her original doctor replied that, due to the regulatory and administrative burdens of the Medicare system, the specialist cannot afford to take any more Medicare patients.

When Mary Ann—who had recently turned 65 and enrolled in Medicare—asked the specialist if she could pay for the treatment out of pocket, the specialist said no. “If I accept you as a patient, I would be accused of Medicare fraud.”

Yes, it's true: Because of a flawed interpretation of the Medicare law, the government has barred Medicare beneficiaries from using their own money to receive treatment from the doctor of their choice. It's Medicare or no care!

To end this unfairness, the Senate passed the Kyl amendment to the Balanced Budget Act of 1997 that would allow health care choice for seniors.

But the Administration threatened to veto the entire budget over this provision, and forced the Senate-House conference committee to include a poison pill:

In order to enter into a private contract, a physician or other provider would have to sign out of Medicare for two years.

The two-year exclusion presents your doctor with a difficult choice: He can either treat you, his patient of 30 years, on a private contract basis, and drop his other Medicare patients for two years; or refuse to treat you in favor of his current Medicare patients.

Over 96 percent of doctors accept some Medicare patients and would not likely be willing to impose such a hardship on their current patients.

So your options will likely be reduced.

To remove this “two year” limitation on patient-choice, House Ways and Means Chairman BILL ARCHER and I introduced the Medicare Beneficiaries Freedom to Contract Act.

The bill removes the two-year exclusion and ensure that any Medicare beneficiary can enter into an agreement with the provider of his or her choice for any health care service.

In his 1998 State of the Union address, President Clinton said that all Americans “should have the right to choose the doctor they want for the care they need.”

We could not agree more. But as of January 1 of this year, seniors no longer have this right because, as I mentioned, the President insisted last year's Balanced Budget Act be changed to effectively preclude seniors from going outside of Medicare—even if they are willing to pay for the care themselves.

S. 1194 could also be referred to as the Senior Citizens “Medicare Point of Service Option.”

Just as with a Point of Service Option in a private plan, this “Medicare Point of Service Option” would allow seniors to go outside of the Medicare network to obtain care from the doctors of their choice.

The only real difference is that the senior-patient would pay 100 percent of the cost of exercising this right, whereas the private plan would subsidize this choice to some degree.

Sandra Butler, president of United Seniors Association, represents the organization's 640,000 members who strongly support this bill.

United Seniors Association members believe that the government's view of private contracting “violates a basic—no, the basic—principle of American life: freedom.”

In addition, a broad array of organizations have expressed support for the case to overturn current law.

This group includes the Christian Coalition, the American Civil Liberties Union, the Heritage Foundation, the American Enterprise Institute, National Right to Life Committee, the American Medical Association, the American Conservative Union, Citizens Against Government Waste, and the National Center for Policy Analysis.

Opponents of the bill make three basic arguments: the bill will increase fraud, will put seniors at the mercy of doctors and other providers, and will hurt Medicare.

1. With respect to fraud, the bill contains extensive anti-fraud measures, including the requirement of a written contract with clear terms, such as the fact that the service could be paid for by Medicare.

2. Others believe that unethical doctors would take advantage of vulnerable seniors.

Common experience with medical professionals who save lives without reimbursement in emergency situations, and seniors who read and question virtually every line in their Medicare bill, clearly refute this claim.

Further, a senior can for any reason terminate the contract prospectively and return to Medicare for the covered benefit.

3. Some believe private contracting will destroy Medicare.

However, private contracting will result in fewer claims being paid out of the near-bankrupt Medicare trust fund.

We believe that the right of seniors to choose the health care provider and benefits that suit their individual needs is essential to our Nation's concept of liberty.

In fact, there is no more fundamental principle at stake in any legislative issue before the Congress.

We must not be the Congress that denied seniors the right to spend money they may have saved for years on a medical procedure needed for themselves or a loved one.

Imagine a law that made it illegal for seniors to supplement their Social Security check with private funds!

In sum, Mr. President, we believe that the Congress should enact legislation that ensures that seniors have the right to see the physician or health-care provider they want, and not be limited in such right by the imposition of unreasonable conditions on providers who are willing to treat seniors on a private basis.

Even Great Britain's system of socialized medicine gives its beneficiaries this freedom.

Senators and their staffs have this freedom. Surely, America should do no less for its seniors.

Mr. President, I take this opportunity to express my appreciation for my colleagues' willingness to work with me to ensure seniors the critical right of health-care choice.

I am joined by many of my colleagues in the Senate to ask the Majority Leader, Senator LOTT, and Senate Finance Committee Chairman ROTH, to work with us and the numerous outside organizations to address this issue of Medicare freedom of health-care choice as soon as is reasonable in the 106th Congress.

As we know, President Clinton and some of our colleagues on both sides of the aisle want the government to continue to control all medical decisions of seniors.

We must not rest until seniors are granted this basic civil right to choose the doctors and benefits that best address their particular health needs.

Mr. ROTH. Mr. President, I thank the majority leader and my colleagues for bringing the important issue of Medicare private contracting to my attention in this constructive way. The individual stories described today on the floor illustrate why private contracting has generating intense interest and deserves careful study. Organizations including the United Seniors Association, American Civil Liberties Union, Christian Coalition, American Conservative Union, Heritage Foundation, National Right to Life Committee, CATO Institute, and Citizens Against Government waste share the concerns with current law and the belief that Medicare beneficiaries should be provided more freedom-of-choice in Medicare. In the months ahead, I intend to work closely with my colleagues here in the Senate to review the private contracting provisions of the Balanced Budget Act of 1997.

(At the request of Mr. KYL, the following statement was ordered to be printed in the RECORD.)

• Mr. HOLLINGS. Mr. President, I want to express my continuing support

for S. 1194, the Medicare Beneficiary Freedom to Contract Act.

It is ironic that the Balanced Budget Act—which purported to expand seniors' freedom of choice—took away most of the rights they already had to spend their own dollars to purchase health care of their choosing. Many senior citizens and disabled individuals in my state are outraged at this loss, and justifiably so. I must concur with the comments made recently by Art Spitzer, legal director of the American Civil Liberties Union of the National Capitol Area in an amici curiae brief in *United Seniors Association vs. Donna Shalala*:

"... the government should be able to say 'We are going to provide a certain amount of health care, and that is how much we will provide and we are not going to provide more than that.' But it seems quite outrageous to us ... that the government could say 'and you may not get any more health care than we are willing to provide you, even if you and your doctor agree that it would be good for you, even if you are able to pay for it with your own funds.'"

I ask that a letter I recently sent to the ranking member of the Senate Finance Committee be printed in the RECORD.

The letter follows:

U.S. SENATE,

Washington, DC, October 5, 1998.

Hon. DANIEL PATRICK MOYNIHAN,  
Ranking Member, Senate Finance Committee,  
Washington, DC.

DEAR PAT: As you know, the American Civil Liberties Union of the National Capital Area has joined as an amici curiae participant in the *United Seniors Association vs. Donna Shalala* lawsuit to enjoin enforcement of Section 4507 of the Balanced Budget Act of 1997. I support the views expressed in this lawsuit that Congress made a mistake in the Balanced Budget Act by disallowing seniors from making the broadest array of physician and medical point-of-service choices in instances where they want or need services out of the Medicare system badly enough to spend their own money. It stepped far over the bounds of "protection" into erosion of freedom.

I strongly supported requirements that physicians file Medicare claims on behalf of beneficiaries. We've gotten the program so complicated that hardly anyone understands it, but doctors are better able to fight complex coding disputes and coverage rules than their patients. Also, not getting paid adds the incentive to resolve claim disputes while keeping money in beneficiaries' pockets. Little did I realize this protection would be used to restrict access to care. Section 4507 is an unwarranted intrusion on freedom of choice for physicians and Medicare beneficiaries and adds unnecessary costs to the Medicare that is already suffering financial problems that scream for resolution.

While most of us are able to find satisfactory care for which we are glad to have Medicare pay, many of my constituents have given reasons why an individual may choose to go outside the Medicare system from time to time. Take the example of a Federal employee who retired to the Charleston area after living sixty years in Washington. She wanted to return to have eye surgery at the Wilmer Eye Institute at Johns Hopkins but was prohibited from doing so because the surgeon did not accept Medicare patients. She wrote me that she is not wealthy and has chosen to live frugally so that she has

something left over after living expenses to spend as she sees fit. "What right does the Government have to tell me I can't spend my own money to buy the health care that I think I need," she asks. I have to agree that the Federal Government telling us senior citizens what we can do with our own money is simply unacceptable.

A great deal of confusion about Section 4507 remains. I continue to believe we can reach a consensus that will permit private contracting for seniors who choose to do so while providing adequate protection for Medicare beneficiaries and request that you give this matter your much respected expert consideration early in the 106th Congress. If I can answer any questions or be of any help, please don't hesitate to call on me.

With kindest regards, I am,

Sincerely,

ERNEST F. HOLLINGS.

Mr. HOLLINGS. Mr. President, we clearly cannot move forward with Medicare+Choice until the confusion over Section 4507 is resolved, and I join my colleagues in urging your earliest consideration of this matter in the 106th Congress. •

Mr. GORTON. Mr. President, I speak today in defense of an essential freedom—the right to make health care decisions outside of the governmental bureaucracy. Yet there is a segment of our population—our seniors—who have lost that freedom. At the administration's insistence a provision was included in the budget reconciliation bill of 1997 that prohibits physicians from participating in the Medicare program for two years if they accept private payment for services normally covered under the Medicare program from a patient who is eligible for Medicare—essentially trapping our seniors in a government controlled health care program.

It is clear that the provisions included in the Balanced Budget Act are hurting seniors. One of my constituents stories was featured in the Reader's Digest. Ray Perry wanted to pay for routine screening tests for he and his wife because years before, prior to enrolling in Medicare, the Perry's had conducted a similar series of tests and were able to detect his wife's lymphatic leukemia very early when it was still treatable. Medicare decided not to pay for the tests because the Perrys didn't have certain symptoms that would indicate these tests were required. But, when the Perrys offered to pay out of their own pocket, the doctor still wouldn't order the tests for fear of being penalized by Medicare. While both the Perrys and their doctor wanted medical services that were clearly reasonable, and the Perrys were willing to pay for these services, the restrictions currently found in Medicare prevented them from getting the kind of health care they needed.

It is unconscionable that in a nation founded on the principles of freedom that we would limit the freedom of the Perrys and millions of American seniors just like them.

Mr. CRAIG. Mr. President, I rise today to make a few remarks concerning the Medicare Beneficiary Freedom

to Contract Act. Most Americans believe that should control their health care to the greatest extent possible. Others continue to favor comprehensive federal control of seniors, health care which results in rationing. All patients should be able to choose their own doctors and have complete freedom to supplement their insurance, including Medicare, as they see fit. The right of seniors to pay out of their own pocket for the health care of their choice is an essential element of our nation's concept of liberty.

Under this Act, Medicare would pay the standard fee for the standard procedures by the standard practitioner with private contracting reserved for more specialized procedures. While it would be a right that—because of economics—would be exercised only in special circumstances, private contracting is a basic right every senior should have. And importantly, it would provide a safeguard from government manipulation—something which under the Clinton Administration is an all-too-real possibility.

Under this act, seniors would be even less likely to privately contract than they are to go to nonparticipating physician, because with private contracting they agree to pay the full cost of the service themselves (just as they historically have.) In fact, if the desire to pay out-of-pocket were widespread, seniors wouldn't join Part B (which is voluntary) at all. But seniors overwhelmingly choose Part B insurance—just as most other Americans do in choosing doctor-visit coverage in their health plans.

President Clinton said in the State of the Union that all Americans must have the right to doctor choice, and assess to specialists without referral. Why not seniors, too?

Mr. President, I believe that Americans are right when they tell me in letters and phone calls and personal visits that they do not want to be trapped by a one-tiered Medicare program. I think I am correct in stating that senior citizens over age 64 are right in being angry at all members of Congress and the Clinton Administration for denying them their right to make any medical choice for themselves, to see any physician they want for any service they want if they want to spend their own money. It is for this reason, that I ask all my colleagues to work with us to restore to seniors their right to privately contract for any medical service with physicians of their choice. I look forward to working with the distinguished Chairman of the Senate Finance Committee, Senator ROTH, and other Members of the Senate toward that goal.

Mr. NICKLES. Mr. President, I thank the Chairman for his work and support of this very important legislation.

I also thank Senator KYL for his dedicated work on this issue. I was pleased to join him as an original cosponsor of this bill, because I believe that this is a fundamental issue of free-

dom for all senior citizens. Every senior citizen should have the fundamental right to pay out of their own pocket for the health care they want from the physician they choose.

President Clinton has repeatedly stated, most recently in his State of the Union address, that "all Americans should have the right to choose the doctor they want for the care they need." But apparently, the administration does not believe this should apply to Medicare beneficiaries. In fact, during the debate on the Balanced Budget Act (BBA) of 1997, the administration repeatedly stated their opposition to giving his unfettered freedom to senior citizens.

Finally, the administration agreed to drop their objections to this provision if the BBA would grant seniors only limited freedom with certain restrictions. In the spirit of compromise, the BBA included a limited provision to allow physicians to enter into private contracts for Medicare-covered services. Unfortunately, the provision in the BBA did not go far enough.

Under BBA 97, in order to enter into these contracts, a physician or other provider would have to opt out of Medicare for two years and sign an affidavit, approved by HCFA, to ensure that no Medicare patients were treated. But the two-year exclusion presents the doctor with a difficult choice: either treat the patient on a private contract and drop all other Medicare patients for two years; or refuse to treat the patient in favor of current Medicare patients. This is a difficult decision that neither a physician or beneficiary should be required to make.

Now, one can argue that the reforms in the BBA were a step forward for Medicare private contracting. If is true that HCFA had interpreted Medicare law, prior to the passage of BBA 97, as effectively prohibiting private contracts. In fact, HCFA had gone as far as threatening physicians and other providers with fines and exclusion from Medicare and even criminal prosecution. So if HCFA's interpretation was correct, perhaps the provisions included in BBA 97 were a step forward.

On the other hand, many respected Medicare experts have suggested that HCFA did, in fact, misinterpret the Medicare statute. In other words, Medicare law did not prohibit private contracts, but rather it was silent on the issue. As I read the Medicare law, prior to BBA, I see nothing that prohibits Medicare beneficiaries and providers from entering into these private arrangements. So if this interpretation is correct, the provisions included in BBA could be viewed as a step backward.

In either case, the right thing to do is to allow seniors unfettered, unrestricted access to the doctor of their choice. The Kyl legislation does just that. It would extend this right to Medicare beneficiaries with no limitation, allowing Medicare beneficiaries to be treated for Medicare-covered services by the physicians of their

choice on a "case-by-case" and a "patient-by-patient" basis. No doctor who chooses to enter into a private contracting arrangement with a senior would be faced with fines or expulsion from the Medicare program.

Opponents of private contracting make two primary arguments against this legislation: unethical doctors will take advantage of seniors to increase their income; and it will result in excessive fraud and abuse in the Medicare program.

The argument that perplexes me the most is the concern that unethical doctors would take advantage of vulnerable seniors and use private contracts to increase their annual income. If I were a Medicare beneficiary I would be offended by the notion that I am unable to make my own financial and medical decision. Senior citizens are some of the most frugal and well informed health care shoppers in the country. Additionally, if I were a physician, I would be offended by the assumption that most doctors are unethical in their professional activities. Any physician that were to engage in unethical or coercive practices faces tremendous risks, including the loss of their medical license for ethical violations.

I assume that those who believe physicians will use the Kyl legislation to line their pockets would also be concerned with new federal coverage mandates on private health insurance. Every federal coverage mandate we place on health insurance providers increases the cost of health insurance and increases the revenues of physicians. But I haven't heard many members who are concerned that federal mandates which require insurance companies to pay for a variety of treatments may increase the profits of physicians. Do we assume that physicians and other practitioners will be ethical when an insurance company is paying the bill and unethical when a vulnerable senior is paying the bill? The fact is that the opponents of this legislation simply want more control over the health care of senior citizens.

The bill also contains strong consumer protection standards to ensure that Medicare beneficiaries are not exploited. Private contracts must be in writing, signed by the beneficiary, and identify the services covered by the contract. It prohibits private contracts in emergency situations, unless the contract was entered into before the onset of the emergency medical condition.

Private contracts may only be entered into on a prospective basis and may not apply to services rendered prior to the signing of the contract. Such contracts must also notify the beneficiary that Medicare is not responsible for the payment of any services covered under the contract and that the beneficiary has the right to have such services provided by other physicians or practitioners to whom Medicare payment would be made.

Other opponents of this legislation argue that private contracting will result in double billing and outright fraud. Perhaps the opponents haven't looked closely at the extensive anti-fraud measures included in this legislation. The legislation prohibits double payments by requiring physicians and practitioners entering into private contracts to submit to the Secretary such information as may be necessary to avoid any payment under Part A or Part B for services covered under the contract. Fraudulent billing would be detected and punished through existing fraud and abuse laws and standard auditing procedures used by Medicare and private plans. If Medicare did pay for a service, the patient would receive a statement and could easily notify Medicare of the payment error.

Mr. President, this legislation adequately addresses the concerns that have been raised by the opponents. The integrity of Medicare system is not at issue here. The defining issue is really quite simple. This is a fundamental issue of individual freedom. Do you support giving senior citizens the freedom to pay out of their own pocket for the health care they want from the physician they choose? Or do you support limiting that freedom and restricting the health care choices available to senior citizens? I hope my colleagues will join Senator Kyl in supporting this legislation and supporting individual freedom for every senior citizen.

Mr. ALLARD. Mr. President, I rise today in support of Senator KYL's initiative to provide more choice for our nation's senior citizens. I encourage the majority leader and Senate Finance Committee Chairman ROTH to continue to work to address the issue of private contracting so that S. 1194 can be enacted into law.

I believe that our seniors should have the right to make their own decisions when it comes to matters of their health. Somewhere along the way, it has been mistakenly assumed that once a person reaches 65, they no longer are able to make their own decisions and do not desire the freedom of choice that others enjoy. Since when did the seniors of our nation become so helpless? Shouldn't seniors be afforded the same rights that the rest of us enjoy—to determine what is in their best interest?

Current law does not permit seniors to purchase their own health care services if those services are covered under Medicare and provided by a physician who accepts Medicare payments. This is ludicrous. Not only does this law take away rights of senior citizens, but these types of regulations within the Medicare system also discourage the participation of doctors. If a physician decides to accept a private contracting fee, the doctor must give up all Medicare patients for two years. In effect, this law has the potential of limiting physicians who participate in the Medicare program. This could consequently

decrease the quality of physicians in the Medicare system because doctors refuse to be part of such an oppressive system.

This issue is one of fundamental rights. No other government program restricts the participants as does Medicare—including Medicaid and health programs for government employees. Medicare beneficiaries should be given the right to pay out-of-pocket and to choose their own health care provider.

One of the guiding principles of this nation is individual freedom. Congress should not support measures that clearly restrict freedom. I urge the enactment of S. 1194, the Medicare Beneficiaries Freedom to Contract Act.

Mr. MACK. Mr. President, I am pleased to be a co-sponsor of the Medicare Beneficiary Freedom to Contract Act. I want to commend the efforts of Senator KYL, who introduced this important legislation and who has worked so hard to secure its passage.

The central questions with respect to the issue of Medicare private contracting are clear. It is the proper role of the Federal government to deny Medicare beneficiaries the ability to use their own money to get the health care services they believe they need? Is it good public health policy to force doctors who treat Medicare beneficiaries on a private-pay basis out of Medicare for two years?

I think these questions must be answered with a resounding "no". If a Medicare patient—or any patient, for that matter—wants to spend his or her own money to pay for a health care service, it should be their decision and not the government's decision. I also believe it is wrong to put a doctor in the position of having to decide between treating a Medicare patient who chooses to pay out-of-pocket, or stop treating all their other Medicare patients for two years.

The administration makes the argument that its opposition to this legislation is based upon its desire to "protect senior citizens". I certainly don't question the sincerity of their concern. However, judging from the response my office has received, seniors neither want nor need the Federal government to "protect them" from themselves. Florida is home to the second largest Medicare beneficiary population in the nation. My office has been deluged with thousands of letters, telephone calls, faxes, postcards and telegrams from Medicare beneficiaries who are, quite frankly, outraged that the Administration is opposed to this legislation.

The communications I have received from seniors in Florida all have common themes—How can something like this be happening in America? Is this not a profound assault on the freedom of American citizens? What right do you people in Washington have to tell me what I can and can't do with my own money when it comes to my own health care? Who asked you to make this decision for me?

I couldn't agree with them more. It is clearly wrong to take important health

care decisions out of the hands of patients and put them into the hands of the Federal government. Moreover, this policy results in a two-tiered system for those Americans who receive their health care from the Federal government. Patients who are beneficiaries of Medicaid, CHAMPUS, the Indian Health Service and Federal workers who participate in the FEHBP, which includes most of us in Congress and our staffs, may legally enter into private contracts with physicians of our choice. But this is not the case for Medicare beneficiaries—because the government supposedly knows what is best for them.

Isn't it also ironic that a citizen of Great Britain, with its socialized health care delivery system, has the ability to privately pay for medical services, but Medicare patients in the United States are denied the ability to make this decision for themselves unless their physician is willing to opt-out of Medicare for two years?

To me, this issue exemplifies one of the most fundamental differences I have with this Administration when it comes to either health care policy or the proper role of the Federal government in general. This absurd policy is simply another example of big government run amok, and it's time to put a stop to it. The Senate should pass the Medicare Beneficiary Freedom to Contract Act now.

Mr. GRASSLEY. Mr. President, the issue of private contracting in the Medicare program is very important to my constituents in Iowa. I have received hundreds of letters asking Congress to repeal the provisions in the Balanced Budget Act of 1997 requiring physicians who enter into a private contract with beneficiaries to opt out of the Medicare program for two years. Seniors in my state believe it is not the role of the federal government to interfere with relationship with their physician. They want to have as many choices and options as possible. I want to make sure their freedom is protected. That is why I want to thank the majority leader, Senator LOTT, and the chairman of the Senate Finance Committee, Senator ROTH, for recognizing the importance of this issue to our nation's seniors and for agreeing to address this problem next Congress. I want to offer my support to help with these efforts as a cosponsor of Senator KYL's legislation and as the Chairman of the Senate Special Committee on Aging and senior member of the Senate Finance Committee.

Mr. BENNETT. Mr. President, I rise to thank my colleague from Delaware, Mr. ROTH, for his commitment to look further into the issue of medicare private contracting and to thank the honorable Senator from Arizona, Mr. KYL, for his leadership as the sponsor of S. 1194, the Medicare Beneficiaries Freedom to Contract Act. As one of 48 cosponsors of Mr. KYL's bill, I believe that we need to take steps to maximize choice, access and care for Medicare

patients, not restrict them in the name of patient protection. I have been contacted by hundreds of seniors from my state who understandably expressed outrage that Congress had passed a law that will inevitably restrict access to health care from the provider of their choice even when they are willing to pay for the care out of their own pocket. We have been told that this provision was included in the Balanced Budget Act as a protection for Medicare patients. However, I believe we can protect Medicare patients from fraud and abuse without restricting their access to desired care.

Mr. President, I thank my colleagues, once again, for their commitment and leadership and I look forward to working with them in the near future to address this important issue.

Mr. INHOFE. Mr. President, I, too, rise in support of S. 1194, the Medicare Beneficiaries Freedom to Contract Act.

You and I, Mr. President, and all other Americans not covered under Medicare, may obtain health services without informing the federal government. However, our nation's senior citizens must first seek out Washington's approval—even when they prefer to pay for those services out of their own pocket.

Congress intended to correct this situation by permitting private contracts. Unfortunately, the President insisted he would veto the entire 1997 Balanced Budget Act unless this fundamental right of all Americans was eliminated or severely limited for senior citizens.

Medicare beneficiaries should have the same freedom to obtain the health care they choose from the physician or provider of their choice—as do Members of Congress and virtually all other Americans. It's ridiculous that this right was taken away and unfortunate that it's taken so long to correct.

Mr. President, I thank the majority leader, Senator LOTT, and Senate Finance Committee Chairman ROTH for acknowledging the importance of this issue and for pledging to look into it further next year in the 106th Congress.

Mr. SHELBY. Mr. President, I thank my distinguished friend, Senator KYL, for introducing S. 1194—the Medicare Beneficiary Freedom to Contract Act and for his leadership on this issue.

I firmly believe it is my obligation, as an elected member of the United States Senate, to defend the liberty of the constituents that put me in office. Freedom manifests itself in various ways, but one fundamental concept of importance in America is the protection of one's discretion over one's financial resources. I often raise this issue in the context of taxes, but in addition to allowing one to reap what one sows, it is equally important that people have the ability to spend their earnings as they see fit.

I want to be perfectly clear what I think the essence is of what we are discussing when the issue of Medicare private contracting arises. We are talking about allowing people to spend their

money as they see fit. This is a very simple, yet important, freedom that people enjoy. We are not talking about letting people buy illegal products, but rather about the right of people to spend their money on health care. Only in Washington DC could such a notion be considered controversial. But to those who have little regard for individual freedom, and who have a vested interest in seeing the scope and power of government grow, this is a controversial matter.

H.L. Menken once said that "the most dangerous man, to any government, is the man who is able to think things out for himself." That is the threat, Mr. President. Those that favor the Medicare monopoly, often even to the detriment of Medicare beneficiaries, resist the freedom of people to make these private decisions, because it threatens the government's control of health care delivery.

Unfortunately the era of big government is not over. In fact, it is alive and well and is embodied in Section 4507 of last year's Balanced Budget Act. Therefore, I want to request that Majority Leader LOTT and Finance Committee Chairman ROTH help us attach S. 1194 to the first appropriate legislative vehicle, so that we can repeal Section 4507. Mr. President, we must restore the right of our elderly to buy the health care they feel they need, without any "big government" constraints on their decisions. This effort is important not only to our ensuring quality health care to our elderly, but also to the larger battle of defending freedom in America.

Mr. KYL. Mr. President, I thank the majority leader, Senator LOTT, and Finance Committee chairman, Senator ROTH, for recognizing the problem of many seniors who are not afforded choice in determining where they get their health care and on agreeing to address this problem in the 106th Congress.

I also thank Senators HOLLINGS, ROTH, GORTON, CRAIG, NICKLES, ALLARD, MACK, GRASSLEY, BENNETT, INHOFE and SHELBY for participating with statements for the RECORD. We do intend to address this problem in the next session of the Congress because we could not get it done this session. I appreciate my colleagues' commitment to doing that and, again, thank the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

#### KOSOVO

Mr. WARNER. Mr. President, I wish to continue a series of remarks that I have placed before the Senate in the past several weeks regarding the increasing problems relating to Kosovo. Together, with other Senators, I have tried to avail myself of every opportunity to learn about this situation. Just weeks ago, I made a trip myself into the region, accompanied by two outstanding ambassadors, Miles and

Hill, and had an opportunity to get firsthand impressions. My trip included Bosnia, Belgrade, Macedonia, and Kosovo.

Those impressions, together with many years of really hard work studying the Balkan region, having first gone, in September 1992, into Sarajevo, I have even greater concern today about the implications of the problems unfolding in Kosovo and the necessity for the world to respond to stop the tragic killing that is taking place every day.

I commend the majority leader—indeed, I am sure there are others who have worked diligently on this—but he has, in this busiest of all weeks of the year in the Senate, found time to convene in his office and otherwise meet with people—and I have joined him on several occasions—about this situation. Indeed, a few days ago a group of us sent a letter to the President of the United States expressing our concerns. This was a letter that followed the briefing by the Secretaries of State and Defense, with the National Security Adviser and the Vice Chairman of the Joint Chiefs.

Mr. President, I will address particular parts of that letter to the President and his response. The response was quite comprehensive.

Further today, I, and I am sure other Members of the Senate, have received drafts of proposed resolutions put forth by a Member on that side of the aisle and a Member on this side of the aisle. Given that they are drafts, and I don't know what the ultimate intention of the drafters will be, I will not identify the persons who distributed the drafts as a senatorial courtesy, but I would like to address my concerns relevant to both drafts.

The purpose today is, again, to give my personal views regarding the plan of operation that has been laid before us publicly by this administration, by the NATO commanders and, indeed, by one or more of our allies, notably Great Britain.

I commend their Minister for National Security and Defense. He has spoken most forthrightly. Indeed, I think his views closely match my own, and that is, any planning to go forward to correct the problems that exist in Kosovo today has to be, in my judgment, and in his, twofold—ground as well as air.

One, a very decisive series of airstrikes, which I support. I believe, and others believe, that a necessary second component of any military action, to back up the airstrikes, has to be the quick placement of a stabilization ground force into Kosovo, into the region, primarily the capital, Pristina. If that is not done, Mr. President, the goals of the airstrikes can not have been fulfilled in my opinion.

In my judgment, the predominant number of military units involved in that airstrike would be American, because of our specialized aircraft and air-to-ground precision ordinance. Our